

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:07-HC-2101-BR

UNITED STATES OF AMERICA

v.

JEFFREY NEUHAUSER

MOTION TO DISMISS AND RELEASE

JEFFREY NEUHAUSER, the respondent in the above-captioned case, by and through undersigned counsel, moves this Honorable Court for an order dismissing the pending 18 U.S.C. § 4248 proceeding for the reasons provided in *United States v. Comstock*, Slip Op. No. 07-7671 (4th Cir., January 8, 2009). This Fourth Circuit opinion affirms this Court's previous judgment that the Bureau of Prisons is holding respondent unconstitutionally.

Respondent respectfully requests that this Court dismiss the action against him and order that respondent be immediately released. Undersigned counsel has contacted counsel for the government who opposes the relief sought in this motion.

Respectfully requested this 9th day of January, 2009.

THOMAS P. McNAMARA
Federal Public Defender

/s/ Jane E. Pearce

JANE E. PEARCE
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Attorney for Respondent
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LR 57.1 Counsel
Appointed

ERIC J. BRIGNAC
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served upon:

Michael D. Bredenberg

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by electronically filing the foregoing with the Clerk of Court on January 9, 2009, using the CM/ECF system which will send notification of such filing to the above.

This the 9th day of January, 2009.

/s/ Jane E. Pearce

JANE E. PEARCE

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